

## CHAMBER ACTION

1 The Judiciary Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the protection of persons and property;  
7 creating s. 776.013, F.S.; authorizing a person to use  
8 force, including deadly force, against an intruder or  
9 attacker in a dwelling, residence, or vehicle under  
10 specified circumstances; creating a presumption that a  
11 reasonable fear of death or great bodily harm exists under  
12 certain circumstances; creating a presumption that a  
13 person acts with the intent to use force or violence under  
14 specified circumstances; providing definitions; amending  
15 ss. 776.012 and 776.031, F.S.; providing that a person is  
16 justified in using deadly force under certain  
17 circumstances; declaring that a person has no duty to  
18 retreat and has the right to stand his or her ground and  
19 meet force with force if the person is in a place where he  
20 or she has a right to be and the force is necessary to  
21 prevent death, great bodily harm, or the commission of a  
22 forcible felony; creating s. 776.032, F.S.; providing  
23 immunity from criminal prosecution or civil action for

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24        using deadly force; defining the term "criminal  
25        prosecution"; authorizing a law enforcement agency to  
26        investigate the use of deadly force but prohibiting the  
27        agency from arresting the person unless the agency  
28        determines that there is probable cause that the force the  
29        person used was unlawful; providing for the award of  
30        attorney's fees, court costs, compensation for loss of  
31        income, and other expenses to a defendant in a civil suit  
32        who was immune from prosecution under this section;  
33        providing an effective date.

34  
35        WHEREAS, the Legislature finds that it is proper for law-  
36        abiding people to protect themselves, their families, and  
37        others from intruders and attackers without fear of prosecution  
38        or civil action for acting in defense of themselves and others,  
39        and

40        WHEREAS, the castle doctrine is a common-law doctrine of  
41        ancient origins which declares that a person's home is his or  
42        her castle, and

43        WHEREAS, Section 8 of Article I of the State Constitution  
44        guarantees the right of the people to bear arms in defense of  
45        themselves, and

46        WHEREAS, the persons residing in or visiting this state  
47        have a right to expect to remain unmolested within their homes  
48        or vehicles, and

49        WHEREAS, no person or victim of crime should be required to  
50        surrender his or her personal safety to a criminal, nor should a

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51 person or victim be required to needlessly retreat in the face  
52 of intrusion or attack, NOW, THEREFORE,

53  
54 Be It Enacted by the Legislature of the State of Florida:

55  
56 Section 1. Section 776.013, Florida Statutes, is created  
57 to read:

58 776.013 Home protection; use of deadly force; presumption  
59 of fear of death or great bodily harm.--

60 (1) A person is presumed to have held a reasonable fear of  
61 imminent peril of death or great bodily harm to himself,  
62 herself, or another when using defensive force that is intended  
63 or likely to cause death or great bodily harm to another if:

64 (a) The person against whom the defensive force was used  
65 was in the process of unlawfully and forcefully entering, or had  
66 unlawfully and forcibly entered, a dwelling, residence, or  
67 occupied vehicle, or if that person had removed or was  
68 attempting to remove another against that person's will from the  
69 dwelling, residence, or occupied vehicle.

70 (b) The person who uses defensive force knew or had reason  
71 to believe that an unlawful and forcible entry or unlawful and  
72 forcible act was occurring or had occurred.

73 (2) The presumption set forth in subsection (1) does not  
74 apply if:

75 (a) The person against whom the defensive force is used  
76 has the right to be in or is a lawful resident of the dwelling,  
77 residence, or vehicle, such as an owner, lessee, invitee, or  
78 titleholder, and there is not an injunction for protection from

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79 domestic violence or a written pretrial supervision order of no  
80 contact against that person;

81 (b) The person or persons sought to be removed is a child  
82 or grandchild, or is otherwise in the lawful custody or under  
83 the lawful guardianship, of the person against whom the  
84 defensive force is used;

85 (c) The person who uses defensive force is engaged in an  
86 unlawful activity or is using the dwelling, residence, or  
87 occupied vehicle to further an unlawful activity; or

88 (d) The person against whom the defensive force is used is  
89 a law enforcement officer, as defined in s. 943.10, who enters  
90 or attempts to enter a dwelling, residence, or vehicle in the  
91 performance of his or her official duties and the officer  
92 identified himself or herself in accordance with any applicable  
93 law or the person using force knew or reasonably should have  
94 known that the person entering or attempting to enter was a law  
95 enforcement officer.

96 (3) A person who is attacked in any other place where he  
97 or she has a right to be has no duty to retreat and has the  
98 right to stand his or her ground and meet force with force,  
99 including deadly force if he or she reasonably believes it is  
100 necessary to do so, to prevent death or great bodily harm to  
101 himself, herself, or another or to prevent the commission of a  
102 forcible felony.

103 (4) A person who unlawfully and by force enters or  
104 attempts to enter a person's dwelling, residence, or occupied  
105 vehicle is presumed to do so with the intent to commit an  
106 unlawful act involving force or violence.

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(5) As used in this section, the term:

(a) "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, that has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.

(b) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

(c) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

Section 2. Section 776.012, Florida Statutes, is amended to read:

776.012 Use of force in defense of person.--A person is justified in using ~~the use of~~ force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the ~~such~~ other's imminent use of unlawful force. However, a ~~the~~ person is justified in the use of deadly force and does not have a duty to retreat only if:

(1) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony; or

(2) Under those circumstances permitted pursuant to s. 776.013.

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134 Section 3. Section 776.031, Florida Statutes, is amended  
135 to read:

136 776.031 Use of force in defense of others.--A person is  
137 justified in the use of force, except deadly force, against  
138 another when and to the extent that the person reasonably  
139 believes that such conduct is necessary to prevent or terminate  
140 the ~~such~~ other's trespass on, or other tortious or criminal  
141 interference with, either real property other than a dwelling or  
142 personal property, lawfully in his or her possession or in the  
143 possession of another who is a member of his or her immediate  
144 family or household or of a person whose property he or she has  
145 a legal duty to protect. However, the person is justified in the  
146 use of deadly force only if he or she reasonably believes that  
147 such force is necessary to prevent the imminent commission of a  
148 forcible felony. A person does not have a duty to retreat if the  
149 person is in a place where he or she has a right to be.

150 Section 4. Section 776.032, Florida Statutes, is created  
151 to read:

152 776.032 Immunity from criminal prosecution and civil  
153 action for justifiable use of force.--

154 (1) A person who uses force as described in s. 776.012, s.  
155 776.013, or s. 776.031 is justified in using such force and is  
156 immune from criminal prosecution and civil action for the use of  
157 such force, unless the person against whom force was used is a  
158 law enforcement officer, as defined in s. 943.10, who was acting  
159 in the performance of his or her official duties and the officer  
160 identified himself or herself in accordance with any applicable  
161 law or the person using force knew or reasonably should have

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162   known that the person was a law enforcement officer. As used in  
163   this subsection, the term "criminal prosecution" includes  
164   arresting, detaining in custody, and charging or prosecuting the  
165   defendant.

166       (2) A law enforcement agency may use standard procedures  
167   for investigating the use of force as described in subsection  
168   (1), but the agency may not arrest the person for using force  
169   unless it determines that there is probable cause that the force  
170   used was unlawful.

171       (3) The court shall award reasonable attorney's fees,  
172   court costs, compensation for loss of income, and all expenses  
173   incurred by the defendant in defense of any civil action brought  
174   by a plaintiff if the court finds that the defendant is immune  
175   from prosecution as provided in subsection (1).

176       Section 5. This act shall take effect October 1, 2005.